

# Office of the Independent Police Auditor



## Annual Report 2002



# CITY OF TUCSON

## Mayor & Council



**HONORABLE  
ROBERT E. WALKUP**  
MAYOR



**JOSÉ J. IBARRA**  
WARD 1



**CAROL W. WEST**  
WARD 2



**KATHLEEN DUNBAR**  
WARD 3



**SHIRLEY C. SCOTT**  
WARD 4



**STEVE LEAL**  
WARD 5



**FRED RONSTADT**  
WARD 6



**JAMES KEENE**  
CITY MANAGER

**LIANA D. PEREZ**  
INDEPENDENT POLICE AUDITOR  
P.O. Box 27210  
Tucson, AZ 85726-7210  
(520) 791-5176 Fax: (520) 791-5182  
[www.ci.tucson.az.us/ia.html](http://www.ci.tucson.az.us/ia.html)

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## Introduction

On March 17, 1997, the Mayor and Council established the position of the Independent Police Auditor. The position was established for the purpose of auditing investigations of citizen complaints against the Tucson Police Department and its employees. The Auditor independently reviews investigations conducted by the Tucson Police Department's Office of Professional Standards, for the purpose of determining if the investigation was complete, thorough, objective and fair. The Auditor may be present at the interviews of citizen witnesses and police officers and may ask questions through the Office of Professional Standards investigator. The Auditor may review all reports, statements and evidence contained in an investigative file. A complaint may be referred for further investigation should the Auditor determine that the investigation is not complete. The Auditor does not have the authority to conduct her own investigations. The Independent Police Auditor is appointed by the City Manager.<sup>1</sup>

The Auditor and a full-time Administrative Assistant currently staff the office. The primary functions of the office are: (1) to serve as an alternative forum where citizens may file complaints; (2) to review the completed investigations of citizen complaints; (3) to monitor on-going investigations as deemed necessary; and (4) to promote public awareness of the external review process by conducting community outreach.

In addition to the Independent Police Auditor, the City of Tucson has a Citizen Police Advisory Review Board (CPARB)<sup>2</sup> as part of the police oversight mechanism. The two entities have distinct functions and operate independently of each other yet have the ability to jointly address critical issues when necessary.

## Filing a Complaint

The office of the Independent Police Auditor is located at City Hall, away from the Tucson Police Department to accommodate citizens who may feel intimidated by going directly to the police to file a complaint. Citizens have several options for filing complaints with the Auditor's office. Complaints may be filed in person, by phone, mail, and facsimile or on the Auditor's website at <http://www.ci.tucson.az.us/ia.html>.

The Auditor conducts a preliminary interview of the complainant to determine the basis of the complaint. Information such as the date, time and location of the incident, names of witnesses and any other information that may be relevant to the investigation are obtained from the complainant. The Auditor completes a Citizen's Complaint Form that is forwarded to the Office of Professional Standards for investigation.

The complainant is sent a confirmation letter acknowledging receipt of the complaint and a brief description of the investigative process. Complainants are subsequently provided with a Citizen's Complaint Receipt<sup>3</sup> by the Office of Professional Standards that includes the case number assigned to the complaint, the date the complaint was taken and the name of the individual who accepted the complaint.

From January 1, 2002 through December 31, 2002, the office of the Independent Police Auditor received 65 complaints that were forwarded to the Office of Professional Standards for investigation. In addition, there were 15 requests from citizens to monitor or review complaints that were filed directly with the Office of Professional Standards. Chart A illustrates the number of complaints filed directly with the Auditor and requests for review over the last four years. For the second consecutive year, there was a decrease in the number of complaints filed both with the Auditor and directly with the Office of Professional Standards.

<sup>1</sup> Reference Appendix A (Independent Police Auditor Procedures)

<sup>2</sup> Reference Appendix B (Citizen Police Advisory Review Board)

<sup>3</sup> Reference Appendix C (Citizen's Complaint Receipt)

**Chart A: Complaints Filed and Requests for Review Through Auditor's Office**

<u>Year</u>	<u>Complaints filed with IPA</u>	<u>Requests for IPA Review</u>
1999	98	24
2000	142	20
2001	81	33
2002	65	15

## Investigations Reviewed/Monitored

The Auditor has the authority to review all completed investigations, regardless of where the complaint was filed, be it through the Auditor's Office or the Office of Professional Standards. Complaints that are selected for review may be: (1) randomly selected from the Office of Professional Standards' monthly closed list; (2) at the request of the citizen; (3) at the request of CPARB; and (4) all complaints that were initiated through the Auditor's office. In addition, the Auditor reviews all investigations involving allegations of use of force regardless of where the complaint was initiated. Complaints that are randomly selected for review, are those which indicate patterns of allegations filed against the Tucson Police Department or repeated complaints attributed to a specific employee.

If the Auditor finds that a complaint was not thoroughly investigated, she may request that further investigative steps be taken. Once the Auditor has completed an audit of an investigation, the complainant is notified in writing, in person or telephonically as to the findings of the Auditor's review. In the event that the complainant disagrees with the review of the Auditor, the complainant may request a review through the Citizen Police Advisory Review Board.

For the calendar year January 1, 2002 through December 31, 2002, audits were conducted on 187 completed investigations. The Auditor also reviewed

342 complaints that were closed with dispositions of "Inquiry" by the Office of Professional Standards.

In many instances complainants will contact either the Office of Professional Standards or the Auditor to question a police action or procedure. Once the complainant is provided with an explanation of the policy or the reason for the action, the individual may no longer wish to pursue a formal complaint. These complaints are then closed with the disposition of "Inquiry."

Complaints closed with a disposition of Inquiry is a way of documenting a particular incident or complaint without initiating an immediate investigation. This category is most commonly used when complainants have charges pending against them and are requesting that the complaint be documented until such time that their civil or criminal case is adjudicated. Complainants are advised that they are required to re-contact the Office of Professional Standards or the Auditor to request that their complaint be opened for investigation. The Auditor monitors complaints closed with dispositions of Inquiry to identify allegation trends and to determine if the reason for closure was justified.

Chart B shows the number of audits conducted of both formal investigations and complaints closed as Inquiries over a four-year period. There was a substantial increase in the number of complaints closed as Inquiries in 2002. The number of formal investigations as compared to 2001 remained relatively unchanged.

**Chart B: Investigations Audited Over Last Four Years**

<u>Year</u>	<u>Formal Investigations</u>	<u>Inquiry/Resolved</u>
1999	259	95
2000	258	211
2001	189	224
2002	187	342

## Citizen Contacts

In addition to the complaints filed and requests to monitor on-going investigations, the Office of the Independent Police Auditor recorded an additional 653 citizen contacts in 2002. Citizen initiated contacts were made by phone, mail, e-mail or in-person. The contacts were a combination of informal inquiries concerning police policies, questions about the complaint process, media contacts and citizens who wanted to share their opinions or concerns but did not necessarily want to file a formal complaint. The Auditor also receives a substantial amount of inquiries from citizens requesting to file complaints about other area law enforcement agencies. In these instances, the Auditor can only refer the individual to the Internal Affairs units for each agency. The Auditor's office has brochures, pamphlets and materials on hand to provide to citizens seeking information concerning city and community programs and services.

## Community Outreach 2002

One of the primary functions of the Independent Police Auditor is to inform and educate citizens of the community about the existence of police oversight and the process in which complaints are filed, investigated and reviewed. Citizens want to be assured that this process is thorough, fair and without bias. During the year 2002, the Auditor made presentations to community groups, professional organizations, neighborhood associations, the media, schools and participants in the Citizen's Police

Academy. Citizen comments and suggestions are very beneficial in enhancing the effectiveness and credibility of the oversight process and identifying programs and services that promote partnerships between the community and the Police Department.

This year, the Auditor focused outreach opportunities towards the youth population, primarily to solicit suggestions for topics to be addressed in a youth information handbook (see Projects 2002). The Auditor hosted several meetings with youths from middle to high school age as well as youth living on their own and the homeless youth population.

The Auditor is an active participant in various local and national community organizations such as: the Arizona Attorney General Latino Advisory Board, the Anti-Hate Crimes Task Force and the National Association of Civilian Oversight of Law Enforcement (NACOLE). The Auditor was a guest speaker at the NACOLE annual conference for the third consecutive year. This year's conference was held in Cambridge, MA, with the theme "The Value of Civilian Oversight: Dollars and Sense."

Informational brochures in both English and Spanish are distributed to community organizations, City Council offices, City Courts, the Main Library and its branches and City of Tucson recreation and community centers. These brochures are also displayed in the lobby of the Main Police Station and substations.

The Tucson Police Department provides information about the Office of the Independent Police Auditor



with notification letters that are sent to citizens regarding the disposition of their complaints. The letters, signed by the Chief of Police, provide information on how to contact the Auditor should the complainant be dissatisfied with the outcome of their investigation or have additional questions about the complaint process.

A website on the City of Tucson's homepage allows complainants to electronically file complaints or obtain information about the office. The Auditor's website is also linked to the Tucson Police Department's homepage.

The Auditor is regularly scheduled to make presentations to newly hired police officers during their final stages of training to provide them with information about the responsibilities and authority that the Auditor has in accepting and reviewing citizen complaints. These presentations provide new officers with the citizen's perspective of police oversight, while allowing them to ask questions about the process and the most common types of complaints that are received from the community. The Auditor emphasizes the expectations of the community in their interactions with law enforcement, particularly in the area of customer service.

## Other Police Actions Reviewed

During the first few years of its existence, the primary focus of this office was to review ongoing and completed investigations of citizen complaints and to conduct community outreach. Citizen complaints are an indication of the types of concerns that citizens have with law enforcement. Complaints can also be used to determine whether the department is meeting expected service levels. Yet, there are often incidents involving police officers that draw public attention and criticism which may appear to go unreviewed, particularly by someone outside of the police department.

Boards of Inquiry (BOI's) are convened at the direction of the Chief of Police to conduct administrative reviews of the circumstances surrounding department operations, police response to a specific inci-

dent or actions of a department member. Officer involved shootings are the most common incidents reviewed by a BOI. Most police oversight entities are excluded from reviewing investigations of officer involved shootings and other critical incidents involving their respective police departments. Prohibiting the oversight entity from participating in these reviews reduces public trust and confidence.

Since its inception in 1997, the Independent Police Auditor has been allowed to participate in the BOI process. The Auditor's role as a "Participating Observer," was formally addressed by Tucson Police Department General Orders in 2001. The Auditor is included in the Board briefings conducted at the scene of officer involved shootings or other critical incidents in which a BOI has been convened. The Auditor also reviews the entire administrative investigation conducted by the Office of Professional Standards and participates in the formal meetings of the Board which include interviews of subject and witness officers.

During 2002, the Auditor participated in twelve BOI's to review the actions of officers in six shootings, two pursuits and four "police actions" some of which resulted in injury or fatalities to citizens of the community. Seven of the incidents reviewed occurred in the last quarter of 2001, but were not reviewed until 2002.

## Officer Involved Shootings

For the calendar year 2002, there were a total of six officer involved shootings, involving eleven department members. Each officer who discharges their firearm during an incident is subject to review of their actions by a BOI. Three of the six incidents resulted in fatalities to citizens. In five of the six shootings, citizens were armed with a firearm. One incident involved a citizen utilizing a motor vehicle as a deadly weapon against officers. All of the citizens involved were male, between the ages of 23 and 40.

**Chart C: Officer Involved Shootings 2002**

<u>Operations Division</u>	<u>Number of Incidents</u>	<u>Fatalities</u>	<u>Citizen Race/Ethnicity</u>
South	1	0	Hispanic
West	0	0	-
Midtown	1	1	Black
East	3	1	White (3)
Downtown	0	0	-
County	1	1	Black
<b>Totals</b>	<b>6</b>	<b>3</b>	

**Officer Involved Shootings 1994-2002**

<u>Year</u>	<u>Number of Incidents</u>	<u>Fatal</u>	<u>Non-Fatal</u>
1994	1	1	0
1995	5	2	3
1996	4	1	3
1997	5	3	2
1998	6	3	3
1999	7	3	4
2000	6	4	2
2001	9	3	6
2002	6	3	3
<b>Totals</b>	<b>49</b>	<b>23</b>	<b>26</b>

**Officer Involved Shootings**1994-2002 by Division

South	12
West	9
Midtown	19
East	6
Downtown	0
County	3
<b>Total</b>	<b>49</b>

**Officer Involved Shootings 1994-2002**by Citizen Race/Ethnicity

Hispanic	16
Native American	0
Black	6
Asian	0
White	27
<b>Total</b>	<b>49</b>



## Use of Force Reporting & Review

In November 2001, the Tucson Police Department began tracking Use of Force for specific levels of force utilized by department members through a mandated reporting process. Prior to implementing this reporting requirement, incidents of use of force were not consistently reviewed. Not all incidents that required officers to use force resulted in a citizen complaint being filed. Thus, an adequate overview of the number of incidents and type of force utilized by the agency was not available. In 2002 there were 44 force-related complaints filed with the Office of Professional Standards. However, there were 467 reported use of force incidents by department personnel that were subject to review under the new reporting criteria.

The data being collected tracks the level of force used, which varies from Level 3B (Hard Hand Control), Level 4 (Intermediate weapons) and Deadly Force. The Operations Division, Assignment and Location Sector of the incident are also tracked as is the race, age and gender of the citizen.<sup>4</sup>

While the statistics gathered present an overview of the use of force department wide, there are obviously various conclusions that may be drawn by the data presented. The expectation of the Department is that the collection of this data will allow for the analysis of trends and patterns, training issues and problematic areas of concern as the data continues to be collected.

It is difficult for both the Auditor and the Tucson Police Department to make definitive comparisons to other police departments of similar size due to significant differences in reported data and criteria used by other departments and oversight agencies. Consequently, rather than comparing the data to other agencies for this first year of reporting, the overall use of force percentages were compared to the total number of calls for service City-wide and by the Operations Division. (See Chart D)

**Chart D: Use of Force Per 1000 Responses During 2002**

City-wide	1.6 per 1000 (292,429 total calls for service)
Operations Division South	2.3 per 1000 (65,456 total calls for service)
Operations Division West	1.5 per 1000 (68,654 total calls for service)
Operations Division East	0.9 per 1000 (67,769 total calls for service)
Operations Division Downtown	2.8 per 1000 (5,709 total calls for service)
Operations Division Midtown	1.6 per 1000 (84,841 total calls for service)

**The number of reported incidents and type of force utilized under the category of Intermediate Weapons for 2002 were as follows:**

Flex Baton	25 times
Baton	11 times
OC spray	99 times
Canine	36 times
Pepperball	22 times
Taser	2 times
Sage	4 times

<sup>4</sup> See Appendix D (Use of Force After Action Report)

## Focus Projects 2002

### Youth Handbook

In an effort to educate youth about police practices, procedures and their civil rights, the Auditor has partnered with two organizations in the community that interact with and conduct training and presentations to youth in our community. The American Friends Service Committee and Pima County Teen Court expressed an interest in working with the Auditor to create a youth handbook to address some of the most common questions raised by youth. Most recently, the Pima County Juvenile Court has expressed interest in the project as well.

During November and December of 2002, the Auditor hosted several youth forums to solicit suggestions about topics that should be covered in the handbook. The youth, with very diverse backgrounds, offered many suggestions about topics, format, wording and distribution of the handbook.

The goal of the project is to reach out to and educate youth about their rights and responsibilities and to provide information that assists them in making wise decisions when interacting with police officers. The handbook will also include a list of community resources and services for youth and information on how to file a complaint of police misconduct. The handbook is expected to be completed and available for distribution by the fall of 2003.

### Mediation Program

After nearly two years of research on mediation programs, the Auditor's Office in conjunction with the Tucson Police Department and OUR TOWN Family Services, developed a Mediation Program to address selected citizen complaints of police misconduct. The program was designed to provide a structured, confidential, and voluntary forum that brings together citizens and police officers to discuss citizen concerns, clarify issues, improve communications and craft mutual agreements that resolve conflict. A trained neutral mediator will facilitate the sessions.

To develop the program, the Auditor gathered information from other jurisdictions that currently have mediation programs. Both successful and non-utilized programs were evaluated. The Auditor's office and the Office of Professional Standards conducted surveys of citizens and police officers to determine the level of interest if a program were to exist. The Tucson Police Officer's Association (TPOA) was included early on in the development process. The TPOA's participation was critical, as it allowed for the discussion and resolution of the most common concerns raised by police officers about mediation programs. Many of the TPOA's suggestions were incorporated into the program.

Complaints identified as being suitable for mediation are those with allegations of Customer Service, Rudeness, Attitude and Demeanor. Complaints not eligible would be those alleging Excessive Force, Criminal Conduct, Arrests, Biased Based Policing and Threats/Intimidation.

A successful program will benefit the community by providing an alternative process to resolve issues other than through a formal investigation. The program is completely voluntary on behalf of the citizen and police officer. It is an opportunity for both to learn from one another and improve community and police relations. The program is scheduled to be fully implemented by June 1, 2003 and will be evaluated periodically.



## 2002 Year End Statistics

The Office of the Independent Police Auditor compiles data from citizen complaints to provide an overview of the nature and frequency of citizen complaints filed as well as specific data which allows the Auditor to identify patterns and trends. By tracking various aspects of the complaints, recommendations can be made to address particular areas of concern. The Auditor continues to work with the Office of Professional Standards staff to identify areas that may be appropriate for data collection.

This was the second year in which data was collected on the nature of the initial police contact that generated a complaint or call to the Auditor or the Office of Professional Standards. Four categories are used in determining the nature of the contact: (1) traffic stops; (2) calls for service (911 generated); (3) field interviews; and (4) other (requests for information, follow-up with investigative units, etc). The "Other" category continues to generate the majority of complaints, while down 5% from 2001. Complaints generated from traffic stops increased by 7%, while calls for service and field interviews indicate a difference of 2% or less.

### Type of Contact that Generated Complaint

Call	38%
Traffic	17%
Field Interview	1%
Other	44%

Percentages based on 528 contacts

All citizen complaints/contacts to the Office of Professional Standards are documented and categorized as; Formal, Informal, Inquiry or IPA Resolved. Formal complaints are those in which an investigation of the allegation(s) is conducted by the Office of Professional Standards or the chain-of-command of the subject employee. Informal complaints are primarily handled through the employee's immediate supervisor, at the request of the complainant. Informal complaints allow the supervisor to be aware of the incident with the ability to take appropriate action as warranted. The complainant may elect to have their complaint handled in this manner. The category of "Inquiry" is used to document a particular incident or complaint without initiating an immediate investigation.

It is most commonly used when a complainant has charges pending against them and requests the incident be documented until such time that their criminal or civil case is adjudicated. It is also used when a citizen is questioning a particular police policy or procedure and does not wish to file a formal complaint. "IPA Resolved" complaints are complaints initiated through the Independent Police Auditor's Office that would normally be categorized as Inquiries but are closed with the concurrence of the IPA that the issues were resolved without an investigation.

### Complaint Categories 2002

Formal	199 (with 277 allegations)
Informal	122
Inquiries	286
IPA Resolved	16

### **Chart E: Two-year Comparison Formal Allegations by Category**

#### Formal Allegations by Category 2001 (% of Total)

Customer Service	145 (53%)
Standards of Conduct	70 (25%)
Police Powers	26 (9%)
Operational Actions	36 (13%)
<b>Total</b>	<b>277</b>

#### Formal Allegations by Category 2002 (% of Total)

Customer Service	76 (28%)
Standards of Conduct	111 (40%)
Police Powers	48 (17%)
Operational Actions	42 (15%)
<b>Total</b>	<b>277</b>

A two-year comparison of formal allegations by category in Chart E (see page 8), indicates a substantial decrease in Customer Service complaints yet an increase of complaints in the area of Standards of Conduct. A similar trend is evident in the category of informal allegations as illustrated in Chart F.

**Chart F: Two-year Comparison Informal Allegations By Category**

<u>2001 (% of Total)</u>		<u>2002 (% of Total)</u>	
Customer Service	75 (46%)	Customer Service	39 (29%)
Standards of Conduct	27 (17%)	Standards of Conduct	60 (45%)
Police Powers	28 (17%)	Police Powers	22 (17%)
Operational Actions	32 (20%)	Operational Actions	13 (9%)
<b>Total</b>	<b>162</b>	<b>Total</b>	<b>134</b>

## Complaints by Employee Tenure, Race, Gender & Age

One of the areas tracked by the Office of Professional Standards is background information on the officer subject to the complaint. The officer's race, gender, age and tenure with the department are compiled on formal complaints. The data has only been collected for the last two years, and in some categories only one year. It is difficult to draw conclusions or identify patterns and trends in this area over such a short period of time.

The primary purpose in collecting this data is to identify specific areas that may be addressed through training to prevent complaints and to increase the employee's awareness of potential areas of vulnerability as they progress through their careers.

**Chart G: 2002 Allegations by Employee Gender / Ethnicity**

Male Hispanic	21%
Female Hispanic	4%
Male Black	4%
Female Black	1%
Male American Indian	1%
Female American Indian	<1%
Male Asian/Pacific Islander	2%
Female Asian/Pacific Islander	<1%
Male White	56%
Female White	11%

**Chart H: TPD Breakdown of Sworn Officers by Gender / Ethnicity as of 1/3/2003**

Male Hispanic	19%
Female Hispanic	3.4%
Male Black	2.8%
Female Black	0.3%
Male American Indian	0.6%
Female American Indian	0.4%
Male Asian/Pacific Islander	1.6%
Female Asian/Pacific Islander	0.2%
Male White	60%
Female White	11%

Charts G & H indicate a very small variance in the correlation of allegations based on the subject employee's gender/ethnicity as compared to the work force analysis of sworn personnel. The most significant variance is in the category of White Males. White Males accounted for 56% of the complaint allegations, however they comprise 60% of the sworn personnel.

**Chart I: 2002 Allegations by Tenure Years of Experience % of Complaints**

0-5	44%
6-10	19%
11-15	14%
16-20	14%
21-25	6%
26+	3%

The number of years of experience for Tucson Police Officers compared to the percentage of overall complaints received during 2002, is illustrated in Chart I. Officers with 0-5 years of experience accounted for 44% of the complaints for 2002. A comparison of other agencies who collect similar data indicates that in this category, officers with one year or less statistically received the lowest percentage of complaints because these officers are in training for most of their first year and are more closely supervised during field training. The Auditor proposes that in future years, the data in this category be broken down further to identify the percentage of complaints for 0-2 years of experience and 3-5 years accordingly.

**Chart J: 2002 Allegations by Employee Age**

<u>Age</u>	<u>% of Complaints</u>
20-25	4%
26-30	23%
31-35	20%
36-40	17%
41-45	16%
46-50	11%
51+	9%

The age of an employee versus the percentage of complaints attributed to each category is significant in that the youngest age category received the lowest percentage of complaints. One can conclude that this category is conceivably the less tenured officers, with less experience in dealing with the public by virtue of their age alone. Statistics on the ages of employees compared to tenure and complaints filed were not available. Due to the fact that age is not a factor in the hiring process, one cannot assume that all new-hires fall within the youngest age category, this statistic would be of interest to evaluate for future reports.

## Complaints by Employee Assignment

All formal complaints are tracked as to the assignment of the employee at the time of the complaint being filed. The Office of Professional Standards provides statistics on complaints by employee assignment to Commanders on a regular basis for monitoring of trends and patterns. Complaints by assignment remained relatively unchanged (4% or less) within the five operations divisions as compared to 2001. Complaints in the Traffic Division increased from 7% in 2001 to 14% in 2002.

### Complaints by Assignment

ODM	21%
ODW	17%
ODE	15%
ODS	14%
ODD	1%
Traffic	14%
All other	18%

**ODM**-Operations Division Midtown

**ODE**-Operations Division East

**ODW**-Operations Division West

**ODS**-Operations Division South

**ODD**- Operations Division Downtown





## Complaint Dispositions

The 199 formal investigations conducted in 2002 consisted of 277 allegations. Dispositions were reached in all but 7 cases at the end of the calendar year 2002. Complaints are investigated by the Office of Professional Standards staff or the subject employee's chain of command depending on the nature and severity of the complaint. The disposition of an investigation as well as any recommendations for discipline is determined by the chain of command. The disposition categories are: Sustained; Not Sustained; Unfounded; Exonerated; and Other.<sup>5</sup>

### Disposition of Formal Allegations 2002

Exonerated	25%
Unfounded	23%
Not Sustained	22%
Sustained	17%
Pending	3%
Other	10%

## Discipline Imposed on Sustained Allegations

Recommendations for discipline on complaints closed with the dispositions of "Sustained" or "Other" may vary from corrective action through various levels of reprimands, suspension and termination if warranted. Corrective action may include counseling, retraining or other appropriate action determined by the chain of command.

### Action Taken on Sustained Allegations

Corrective Action	66%
Lesser Reprimand	18%
Suspension	9%
Major Reprimand	7%
Serious Reprimand	0%
No Action	0%



<sup>5</sup> See Appendix E (Definition of Dispositions)

## Conclusion

The Office of the Independent Police Auditor has now been in existence for five years. Although many enhancements to the complaint filing and review process have been implemented over this time, it is imperative that this office continues to be vigilant in both the role of oversight and all other aspects of the review function.

The Tucson Police Department, under the direction of Chief Miranda, has been supportive of seeking alternative methods to resolve citizen complaints and enhance the Department's relationship with the community. The Mediation Program was researched and well planned prior to implementation in the hope that it will benefit all parties involved. Areas in which statistical data is collected will continue to be evaluated to adequately address significant trends and areas of concern both with individual employees and the Department as a whole.

During the calendar year 2003, the Tucson Police Department intends to purchase "Early Warning System" software designed to identify employees with either real or perceived performance issues. The software "alerts" under pre-established criteria so that appropriate intervention can be initiated. Early Warning Systems are a recent trend for some of the larger law enforcement agencies in the country. The implementation and thresholds are critical to the effectiveness of the system. The Auditor welcomes the opportunity to work with the Department in establishing the areas to be tracked by the system that will add to the effectiveness of the oversight function of this office.

The Auditor continuously receives articles from other oversight agencies around the country and through membership in the National Association of Civilian Oversight of Law Enforcement. Not a week or a day goes by without hearing of a police scandal or crisis in another city. While no law enforcement agency is beyond scandals or high profile incidents, the community should be confident that their police departments take swift and thorough action when incidents do occur. The role of civilian oversight should not be limited to accepting and reviewing complaints and conducting community outreach. Effective oversight addresses all areas of law enforcement's practices and programs that significantly impact citizens of the community.





## Appendix A

### INDEPENDENT POLICE AUDITOR PROCEDURES

On March 17, 1997, the Mayor and Council established the position of Independent Police Auditor. The position was established for the purpose of auditing investigations of citizen complaints against the Tucson Police Department. The Auditor independently reviews investigations for the purpose of determining if the investigation was complete, thorough, objective and fair. The Independent Police Auditor is appointed and directed by the City Manager.

#### SECTION 1 - AUTHORITY, TIME FRAME, DUTIES AND RESPONSIBILITIES OF THE INDEPENDENT POLICE AUDITOR:

##### 1.1 Citizen Complaints: Authority:

The Independent Police Auditor shall have the authority to:

Receive citizen complaints against the Tucson Police Department and forward said complaints to the Office of Professional Standards.

Speak with civilian witnesses as it relates to the review of completed investigations for the purpose of determining if the investigation was complete, thorough, objective and fair. Monitor on-going investigations.

Attend interviews conducted by the Office of Professional Standards of any witness. The Independent Police Auditor cannot question witnesses, but may suggest questions to be asked by Office of Professional Standards investigators. Review investigations completed by the Office of Professional Standards at the request of complainants.

Request the Chief of Police, through the Internal Affairs commander, to further investigate cases which, upon review, the Auditor does not find complete, thorough, objective or fair.

Make recommendations to the Chief of Police through the City Manager.

##### 1.2 Citizen Complaints: Time Frame:

The Independent Police Auditor shall have review authority in respect to citizen complaints arising out of incidents occurring on or after September 1, 1997. Investigations not listed as “closed” by the Office of Professional Standards prior to September 1, 1997, may also be reviewed by the Independent Police Auditor. Investigations re-opened by the Office of Professional Standards for consideration of new evidence shall also fall within the review authority of the Independent Police Auditor.

##### 1.3 Duties and Responsibilities:

The Independent Police Auditor shall have the duties and responsibilities to:

- A) As an alternative to the Office of Professional Standards, receive complaints against the Tucson Police Department or the actions of its officers.
- B) Respond to Citizen Police Advisory Review Board’s (CPARB) request for monitoring of a particular complaint.
- C) Respond to CPARB’s request for a review of completed action taken by the Independent Police

- Auditor on a citizen complaint.
- D) Prepare reports as requested by the City Manager.  
Promote community awareness of a citizen's right to file a complaint.
- F) Educate complainants who would otherwise be unfamiliar with or intimidated by the investigative process.

## **SECTION 2 - INTAKE PROCEDURES:**

The Independent Police Auditor or staff member shall be available as an alternative intake person for members of the community who wish to make a complaint against the Tucson Police Department. The Independent Police Auditor or staff member shall receive complaints from citizens in person, in writing, by facsimile or over the telephone. Intake assistance shall also be available for Spanish speaking individuals. Upon receipt of the complainant allegations, the Independent Police Auditor will:

- A) Log the complaint as having been received by the office of the Independent Police Auditor, noting the date received and manner in which the complaint was filed (in-person, phone, mail, fax, or other).
- B) The Independent Police Auditor or staff member will immediately notify the Office of Professional Standards that a complaint was received.
- C) The documented complaint information will be forwarded to the Office of Professional Standards.

Upon receipt of the documented complaint, the Office of Professional Standards will notify the Independent Police Auditor of the case number assigned to the complaint. The Independent Police Auditor will not conduct a separate investigation.

## **SECTION 3 - AUDIT OF COMPLAINTS:**

The Independent Police Auditor shall have the jurisdiction to audit all completed investigations conducted by the Office of Professional Standards arising from citizen complaints, as provided for in Section 1.2.

## **SECTION 4 - MONITORING COMPLAINTS:**

- 4.1 The Independent Police Auditor may monitor on-going investigations being conducted by the Office of Professional Standards.
- 4.2 The Independent Police Auditor may monitor particular cases at the request of the Citizen Police Advisory Review Board.

## **SECTION 5 - AUDITOR REPORTING PROCESS:**

The Independent Police Auditor shall provide the City Manager with written reports as requested. The Auditor's report may contain, but not be limited to, the following:

- A) Statistics documenting the number of calls, contacts and complaints, and the nature of such which are filed directly with the office of the Independent Police Auditor.
- B) An analysis of trends and patterns.
- C) Recommendations for improvements/changes.
- D) Issues brought to the attention of the Tucson Police Department by the Independent Police Auditor with respect to the citizen complaint process.

- E) A review of disciplinary actions taken by the Tucson Police Department on completed cases. The Auditor's report will not contain any recommendations concerning the discipline of any particular officer, nor make reference to or identify any particular officer.

#### **SECTION 6 - CONFIDENTIALITY OF RECORDS:**

Any documents and/or information gathered or generated during a review of an Office of Professional Standards investigation by the Auditor or staff, are confidential and will not be disclosed to any member of the public, except in accordance with applicable law.

#### **SECTION 7 - PUBLIC COMMENTS:**

The Independent Police Auditor and staff will not publicly comment on pending complaints, audits and investigations.

#### **SECTION 8 - PUBLIC AWARENESS:**

One of the objectives of the office of the Independent Police Auditor is to promote community awareness of a citizen's right to file a complaint and the manner by which complaints are accepted by providing public information, including printed literature, radio and television, and public presentations at community meetings. Public information shall be available in Spanish.



## **Appendix B**

\*Editor's note: Ordinance No. 8843, § 1, adopted March 24, 1997, repealed §§ 10A-86—10A-93 and added new §§ 10A-86—10A-95. Formerly, such sections pertained to similar provisions and derived from Ord. No. 5123, § 2, 3-24-80; Ord. No. 7935, § 1, 11-2-92.

### Sec. 10A-86. Declaration of policy.

It is the policy of the city to foster and encourage a citizen police partnership in the prevention of crime and to develop and maintain positive communications and mutual understanding and trust between the police and the community. The mayor and council find that the partnership between police and citizens is strongest when citizens are confident that the internal investigation of citizen complaints against the police department is fair and just. The mayor and council further find that such confidence is best achieved by opening the internal investigative process to public review and comment.

(Ord. No. 8843, § 1, 3-24-97)

### Sec. 10A-87. Creation.

In order to promote the goals and objectives of the above-stated policy, there is hereby established an entity to be called the "citizen police advisory review board."

(Ord. No. 8843, § 1, 3-24-97)

### Sec. 10A-88. Citizen complaints and concerns: powers and duties.

The citizen police advisory review board is authorized to:

- (a) Refer citizens who wish to file complaints against the city police department to the department's office of professional standards or to the office of the independent police auditor.
- (b) Conduct public outreach to educate the community of the role of the office of professional standards and the office of the independent police auditor in the investigation of complaints against the city police department or one of its officers.
- (c) Request that the independent police auditor monitor a particular citizen complaint being investigated by the city police department.
- (d) Request from the city police department a review of completed action taken by the department on a citizen complaint or a review of incidents which create community concern or controversy.
- (e) Request from the independent police auditor a review of completed action taken by the independent police auditor on a citizen complaint.
- (f) Review completed investigations of citizen complaints alleging police officer misconduct in order to comment on the fairness and thoroughness of an investigation and to report any concerns regarding

the investigation to the chief of police, the independent police auditor, the city manager and/or the mayor and council.

- (g) Provide comments and recommendations to the chief of police, the independent police auditor, the city manager and/or the mayor and council on the citizen complaint review process.
- (h) Provide comments and recommendations to the chief of police, the independent police auditor, the city manager and/or mayor and council on police department policy, procedure, and practice.

(Ord. No. 8843, § 1, 3-24-97)

Sec. 10A-89. Community-police partnership: powers and duties.

The citizen police advisory review board shall have the authority to:

- (a) Consult with the governing body from time to time as may be required by the mayor and council.
- (b) Assist the police in achieving a greater understanding of the nature and causes of complex community problems in the area of human relations, with special emphasis on the advancement and improvement of relations between police and community minority groups.
- (c) Study, examine, and recommend methods, approaches, and techniques to encourage and develop an active citizen police partnership in the prevention of crime.
- (d) Promote cooperative citizen-police programs and approaches to the solutions of community crime problems, emphasizing the principle that the administration of justice is a responsibility which requires total community involvement.
- (e) Recommend procedures, programs, and/or legislation to enhance cooperation among citizens of the community and police.
- (f) Strive to strengthen and ensure, throughout the community, the application of the principle of equal protection under the law for all persons.
- (g) Consult and cooperate with federal, state, city, and other public agencies, commissions, and committees on matters within the board's charge.
- (h) At the discretion and express direction of the mayor and council, assume and undertake such other tasks or duties as will facilitate the accomplishment of these goals and objectives, except as hereinafter provided.

(Ord. No. 8843, § 1, 3-24-97)

Sec. 10A-90. Composition, appointment, and terms.

- (a) Composition and qualifications. The citizen police advisory review board shall be composed of ten (10) members. All voting members shall be residents of the city and shall not have ever been convicted of a felony. No voting member shall currently be a peace officer.

- (b) Appointment. The mayor and each councilmember shall appoint one (1) voting member of the board. Should an appointment not be made within thirty (30) days of when the position becomes available, the appointment can be made by a majority vote of the mayor and council. The city manager, the chief of police, and the police employee's labor representation group, recognized by the city, shall each designate a representative to serve on the board as a continuing ex-officio, nonvoting member. In the event that there is no police employee's labor representation group recognized by the city, the chief of police shall designate one (1) commissioned officer within the department who holds a rank no greater than sergeant to serve on the board as a continuing ex-officio, nonvoting member.
- (c) Diversity of advisory members. As provided in section 10A-137 the board may appoint up to four (4) additional nonvoting advisory members. The appointment of advisory members shall be made so as to enhance the diversity of the board.
- (d) Term. All appointments shall be for four-year terms, except that members appointed by the mayor and each councilmember shall not serve beyond the term of the mayor or councilmember making such appointment. Ex-officio members serve at the pleasure of the individual or group they represent.

(Ord. No. 8843, § 1, 3-24-97)

#### Sec. 10A-91. Board organization.

The citizen police advisory review board chairperson and vice-chairperson shall be selected by a majority of those members appointed by the mayor and council. The board shall adopt rules and regulations relating to its powers and duties, may appoint from its members such standing or special committees as determined necessary, and shall meet at such times and places throughout the city as determined by the board.

(Ord. No. 8843, § 1, 3-24-97)

#### Sec. 10A-92. Reports.

The citizen police advisory review board shall report to the mayor and council annually and shall submit such additional reports as it deems necessary or as requested by the mayor and council. The board's annual report shall be filed on or before September 1.

(Ord. No. 8843, § 1, 3-24-97)

#### Sec. 10A-93. Limitations of powers.

Neither the citizen police advisory review board nor any member thereof, except as otherwise authorized by law, shall:

- (a) Refer citizens who wish to file complaints against the city police department to the department's office of professional standards or to the office of the independent police auditor.
- (c) Independently investigate citizen complaints against the police department or individual police officers by questioning witnesses or otherwise.
- (d) Conduct any activity which might constitute or be construed as a quasi-judicial review of police actions.

- (e) Conduct any activity which might constitute or be construed as establishment of city policy.
- (f) Violate the confidentiality of any information related to matters involving pending or forthcoming civil or criminal litigation.
- (g) Review or comment on the investigation of a citizen complaint where criminal charges are under investigation or pending until the case has reached a final disposition.
- (h) Disseminate any records, investigations, or other information the board has obtained from the police department.

The activities of the board at all times shall be conducted in accordance with all applicable federal, state, and local laws.

(Ord. No. 8843, § 1, 3-24-97)

#### Sec. 10A-94. Training.

- (a) Initial comprehensive training shall be provided to each voting board member prior to reviewing any cases. Such training shall be mandatory and shall be designed and implemented by the board's training committee, the independent police auditor and the police department. Such training should include, but shall not be limited to, familiarization with:
  - (1) City police department operations;
  - (2) Police review structures and issues;
  - (3) Surveys of citizen concerns;
  - (4) Police training programs;
  - (5) Confidentiality;
  - (6) Citizen participation;
  - (7) History of citizen-police oversight in the United States and Tucson;
  - (8) Race, community relations, and law enforcement; and
  - (9) Police employee organization issues and concerns.
- (b) After appointment to the board, voting members are required to pursue forty-eight (48) hours of educational opportunities annually and report these to the chairperson. For purposes of this section, educational opportunities shall be defined as:
  - (1) Ride-alongs (recommended: one (1) ride-along per quarter for a minimum of four (4) hours;
  - (2) Police department's citizen academy;
  - (3) Work on board committees; and
  - (4) Other training directed toward becoming knowledgeable with the procedures and practices of the city police department or otherwise designed to increase the board member's skills in reviewing and evaluating citizen complaints.

(Ord. No. 8843, § 1, 3-24-97)

#### Sec. 10A-95. Cooperation.

The various city officers and employees are hereby authorized and directed to perform all acts necessary or desirable to give effect to this article. The city manager is hereby authorized and directed to provide or make provisions for such services as are reasonably needed to support the citizen police advisory review board's activities.





## APPENDIX C

## Tucson Police Department

*Office of Professional Standards*

270 S. Stone Avenue, Tucson, AZ 85701-1917  
(520) 791-4426

[WWW.CITYOFTUCSON.ORG/POLICE](http://WWW.CITYOFTUCSON.ORG/POLICE)

## CITIZEN'S COMPLAINT RECEIPT

Your complaint has been received by the Office of Professional Standards, Internal Affairs, for processing. It will be assigned to an investigator and reviewed by the appropriate commander(s). You will receive a phone call and/or letter notifying you of the final disposition of your complaint. If the investigation takes in excess of 60 days, an Internal Affairs detective will notify you of the delay by phone or in person.

We appreciate the opportunity to examine the service we provide to you and other members of our community. Should you have further information concerning the investigation, or if you have concerns or questions about the complaint process, you may telephone the detective listed below. Office hours are Monday through Friday, 7:00 a.m. through 5:00 p.m. Your complaint is filed by an Internal Affairs report number, which is also listed below.

You have the additional option of addressing concerns or questions about your complaint to Ms. Liana Perez, the Independent Police Auditor, at (520) 791-5176.

Date Complaint Taken:	How Taken: <input type="checkbox"/> By Phone <input type="checkbox"/> In Person <input type="checkbox"/> Other
Internal Affairs Detective:	Internal Affairs Report Number:

☐

If this box is checked, that means your complaint is temporarily closed until after your court appearance. Once you have appeared in court, and the case is fully adjudicated, please contact our office immediately (at the above-listed office number) in order to re-open the complaint.

**FALSE INFORMATION WARNING**

You have the right to file a complaint. However, in accordance with Arizona law, in all instances where a knowing and intentional false report is made to the agency, it is the policy of the Tucson Police Department to pursue criminal prosecution. In addition to any criminal penalties provided, the police officer involved may file a civil lawsuit for damages attributed to such false report.

**APPENDIX D****USE OF FORCE AFTER ACTION REPORT**

Members of the Tucson Police Department may find it necessary to use force to overcome resistance, protect property and defend themselves or another person.

Supervisors shall ensure this form is completed in a reasonable and timely manner; when a member uses force level 3B, 4, or 5, or if injury is sustained by the member or by the person whom the force is being used.

*INJURY IS DEFINED AS ANY PHYSICAL HARM TO A PERSON, WHETHER OR NOT REQUIRING MEDICAL ATTENTION.*

**Levels of Resistance**

<b>Psychological Intimidation</b>	Non-verbal cues indicating the subject's attitude, appearance and physical readiness.
<b>Verbal Non-Compliance</b>	Verbal responses indicating the subject's unwillingness to comply with direction; may include verbal threats made by the subject.
<b>Passive Resistance</b>	Physical actions that do not directly prevent the member's attempt of control.
<b>Defensive Resistance</b>	Physical actions that attempt to prevent the member's control, but make no directed attempt to harm the member.
<b>Active Aggression</b>	Physical acts of aggression.
<b>Deadly Force</b>	Physical acts of aggression directed towards a member or another that are likely to cause serious injury or death.

**The levels of force are defined as:**

- |                                |   |
|--------------------------------|---|
| <b>1. Officer Presence</b>     | Means a member is clearly identified as an officer and his or her authority is established, by their presence in uniform, or by clearly displaying a badge or identification.   |
| <b>2. Verbal Direction</b>     | Communication directed toward controlling the actions of a subject. This may include direction, orders or commands.   |
| <b>3. Empty Hand Control</b>   | Techniques employed by officers without the aid of equipment or weapons. These include: <b>A.</b> "soft" control techniques that present a minimal risk of injury, e.g. wrist locks, handcuffing, touch pressure points, etc., and <b>B.</b> "hard" control techniques that might cause minimal injury, i.e. striking techniques using the hands or feet. |
| <b>4. Intermediate Weapons</b> | The use of authorized less lethal weapons including impact weapons, chemical and OC agents, flex-batons, canines and other specialized less lethal munitions.   |
| <b>5. Deadly Force</b>         | A tactic or use of force that is likely to cause serious injury or death.   |

*JUSTIFICATION FOR THE USE OF FORCE SHALL BE ARTICULATED IN THE SYNOPSIS OR IN THE ATTACHED CASE REPORT.*



## APPENDIX D



## USE OF FORCE AFTER ACTION REPORT

CASE NUMBER: \_\_\_\_\_ LOCATION OF INCIDENT: \_\_\_\_\_

DIVISION: \_\_\_\_\_ SECTOR: \_\_\_\_\_

NAME OF OFFICER: \_\_\_\_\_ P.R.#: \_\_\_\_\_ UNIT: \_\_\_\_\_

SUBJECT INFORMATION: AGE: \_\_\_\_\_ MALE: ☐ FEMALE: ☐ RACE: \_\_\_\_\_

## TYPE OF FORCE USED:

EMPTY HAND CONTROL (3B) ☐ INTERMEDIATE WEAPONS ☐ DEADLY FORCE ☐

## IMPACT WEAPONS

TYPE OF LESS LETHAL MUNITION(S) USED:

FLEX BATON: ☐ OTHER MUNITION: \_\_\_\_\_

IMPACT WEAPON: \_\_\_\_\_

TOTAL NUMBER OF TARGETS: \_\_\_\_\_

NUMBER OF TIMES DEPLOYED: \_\_\_\_\_

APPROXIMATE RANGE TO TARGET: \_\_\_\_\_ FT.

CANINE DEPLOYED: YES ☐ NO ☐  
(INCLUDE DETAILS IN SYNOPSIS)

## CHEMICAL AGENTS

TYPE OF CHEMICAL AGENT(S) USED:

OC ☐ CS ☐ CN ☐

MANNER DEPLOYED: \_\_\_\_\_

NUMBER OF TARGETS: \_\_\_\_\_

NUMBER OF TIMES DEPLOYED: \_\_\_\_\_

APPROXIMATE RANGE TO TARGET: \_\_\_\_\_ FT.

## SUBJECT BEHAVIOR

PASSIVE RESISTANCE: ☐DEFENSIVE RESISTANCE: ☐ACTIVE AGGRESSION: ☐DEADLY FORCE: ☐PERSON INJURED: YES ☐ NO ☐INJURED PERSON REPORT COMPLETED: ☐

## SUBJECT CONDITION

SUICIDAL: ☐DANGER TO OTHERS: ☐ALCOHOL: ☐DRUGS: ☐

TYPE: \_\_\_\_\_

PHOTOGRAPHS TAKEN: ☐

## SYNOPSIS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CASE REPORT ATTACHED: ☐

## CHAIN OF COMMAND REVIEW

SUPERVISOR ADVISED OF INCIDENT: \_\_\_\_\_

SERGEANT: \_\_\_\_\_ LIEUTENANT: \_\_\_\_\_ CAPTAIN: \_\_\_\_\_

FOLLOWING THE CHAIN OF COMMAND REVIEW, FORWARD THIS FORM TO THE OFFICE OF  
INTERNAL AFFAIRS.

## APPENDIX E

### Definition of Complaint Dispositions

1. **Sustained:** Member is determined to have committed the alleged violation.
2. **Not Sustained:** It cannot be determined if the member committed the alleged violation (i.e. citizen's version vs. the officer's version of a traffic contact that resulted in a rudeness complaint.)
3. **Unfounded:** Member did not commit the alleged violation.
4. **Exonerated:** Member was justified in taking the course of action alleged as inappropriate and/or member was operating within guidelines of General Orders and procedures.
5. **Other:** Member determined to have committed a violation other than the alleged violation.
6. **Resolved:** The complaint was addressed by Office of Professional Standards staff without a formal complaint to the member's chain of command.